IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1562 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LILAVATIBEN WD/O K C CHOKSY

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH D BHATT for Appellant

GOVERNMENT PLEADER for Respondent No. 1

SERVED BY AFFIX.(N) for Respondent No. 2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 20/01/2003

ORAL JUDGEMENT

1. Respondent no.2 is the son of the appellant and co-owner of the property. He was served by affixing and is deemed to have been served.

2. This appeal is directed against the judgment and

decree passed by the learned City Civil Judge, Court No.15, Ahmedabad in Civil Suit No.3628 of 1976 dismissing the suit filed by the plaintiff - appellant.

3. The appellant had filed the said suit for a declaration that the order dated 13th March, 1972 passed by the City Deputy Collector under Section 67 of the Bombay Land Revenue Code read with Rule 100 of the Bombay Land Revenue Rules, as confirmed in appeal by the Collector and in Revision by the Special Secretary, was null and void and inoperative in law.

4. It appears that the impugned order was passed by the Collector on the ground that the plaintiff had made non-residential and unauthorised construction on the margin land, which was in violation of the conditions on which N.A. permission of the whole land was granted jointly to the owners.

5. The learned Judge, at the end of the trial, held that it was not proved that the impugned order was illegal and invalid. He also held that the suit was barred by the relevant provisions of the Bombay Land Revenue Jurisdiction Act, 1897. He, therefore, dismissed the suit.

6. The learned counsel for the appellant took me through the judgment. However, the findings recorded by the learned Judge could not be assailed and no ground is made out for interfering with the same. There is no substance in the appeal and the same is dismissed. No order as to costs.

(M.C. Patel, J.)
hki